

Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION  
OFFICE OF SECRETARY

In the Matter of )

Implementation of the Local )  
Competition Provisions of the )  
Telecommunications Act of 1996 )

CC Docket No. 96-98

DOCKET FILE COPY ORIGINAL

Interconnection between Local Exchange )  
Carriers and Commercial Mobile Radio )  
Service Providers )

CC Docket No. 95-185

**OPPOSITION OF SOUTHWESTERN BELL TELEPHONE COMPANY  
TO PETITIONS FOR RECONSIDERATION/CLARIFICATION**

Southwestern Bell Telephone Company ("SWBT"), by its attorneys, files this opposition to the "Petition for Partial Reconsideration and Clarification" ("MFS Petition") filed by MFS Communications Company, Inc. ("MFS") and the "Petition for Clarification and Reconsideration" ("ALTS Petition") filed by the Association for Local Telecommunications Services ("ALTS"). Both seek reconsideration of what each admits is not a new issue (MFS Petition, pp. 14-16; ALTS Petition, pp. 14-15), yet each takes another opportunity to request that the Commission order incumbent local exchange carriers ("LECs") to enter into "\$1 sale/buyback arrangements." Assuming arguendo that the Commission has the authority to order any such pricing,<sup>1</sup> the Commission should likewise again decline to adopt any such requirement.

The sole basis for both Petitions are allegations regarding SWBT. Essentially, each alleges that SWBT is unwilling to enter into "\$1 sale/buyback arrangements" and thus that all

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<sup>1</sup> SBC Communications Inc., SWBT's parent company, has respectfully disputed and continues to dispute the Commission's authority to set prices for local services under the Act. See, generally, Iowa Utilities Board v. FCC, Nos. 96-3321, et al. (8th Cir., filed September 9, 1996). SWBT also disputes any such claim of authority.

incumbent LECs should be restricted lest they, like SWBT, also act lawfully. Even if the Commission could find that SWBT has acted unreasonably with respect to virtual collocation for expanded interconnection to interstate access services, such a finding affords no basis for imposing such provisioning and pricing requirements on Section 251(c)(2) interconnection arrangements that Congress intended be negotiated between incumbent LECs and requesting carriers and, if necessary, arbitrated before the State commissions. In fact, MFS as much as admits that arbitration is the forum in which to contest any such terms and conditions that MFS believes to be unreasonable. MFS Petition, p. 15.

In any event, MFS and ALTS both proceed from a factual inaccuracy. SWBT has previously explained to the Commission that SWBT is not averse to mutually agreeable arrangements that permit the interconnector to act as the supplier at whatever price the interconnector wishes to set. What SWBT has been unwilling to do, however, is forego the recovery of direct costs due to such a transaction, or joint and common costs that may lawfully be recovered from the interconnector. See, e.g., "Rebuttal to Oppositions Filed in Response to the Direct Case of Southwestern Bell Telephone Company," filed November 22, 1995, at pp. 32-34, in CC Docket No. 94-97, Phase II. As also explained therein, SWBT requires the interconnector to meet the same vendor and equipment standards that SWBT requires of any vendor of similar equipment. Id., p. 32. To date, no interconnector has sought any such arrangement with SWBT.

Finally, MFS attempts to justify Commission action on this matter based upon quotes for particular physical collocation arrangements that have been provided by SWBT. MFS' overblown characterizations notwithstanding, SWBT's goal in providing physical collocation is to avoid the situation it experienced with tariffing collocation under standard rates. As explained in earlier

comments in this proceeding, SWBT lost a considerable amount of money in providing physical collocation. In essence SWBT was required to subsidize its competitors. SWBT now seeks cost recovery from the cost causer, which will mean that if an interconnector is the first in a particular location, it will be responsible for the costs of the necessary central office modifications. Those costs can vary considerably based upon the building and available space. However, in the physical collocation agreement that SWBT successfully negotiated with MFS, SWBT did commit to refunding money based upon a set number of subsequent collocators within a defined time period.

Further, the costs of any specific physical collocation arrangement will also vary by the particular requests of the interconnector. For example, interconnectors that demand more power than SWBT can provide will be required to pay for the power plant upgrades, and will pay more than interconnectors who have lesser needs. Reciting numbers simply cannot substitute for digging into the details of the specific arrangement requested by an interconnector.

For MFS to suggest that the Commission draw any conclusions about SWBT's proposed charges on the sole basis of MFS' assertion that those charges are "certainly an excessive amount" is exactly why Congress intended these matters to be negotiated and, if necessary, arbitrated by State commissions. MFS has a statutory opportunity to demonstrate any claimed excessiveness in a hearing with facts and figures, not bald assertions. SWBT is convinced that those assertions, if put to the test of arbitration, would not prove out -- so much so that SWBT committed, prior to the First Report and Order, to providing MFS with cost information on physical collocation quotes and charges as part of its physical collocation agreement with MFS. SWBT is obviously willing to strike the same agreement with other interconnectors in negotiations under the Act.

Any complaint that an interconnector may ultimately have on a physical collocation charge is a matter for arbitration between the incumbent LEC and the interconnector, and does not afford the Commission with the authority or any reason to force \$1 sale/buyback arrangements on incumbent LECs.

Respectfully submitted,

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October 31, 1996

CERTIFICATE OF SERVICE

I, Katie M. Turner, hereby certify that the foregoing, "Opposition of SWBT to Petition for Reconsideration/Clarification" in CC Docket No. 96-98 has been filed this 31st day of October, 1996 to the Parties of Record.

A handwritten signature in black ink, appearing to read "Katie M. Turner", written over a horizontal line.

Katie M. Turner

October 31, 1996

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